THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.29015 of 1995

Dated:07.11.2006

Between
J.Muthaiah

.....Petitioner

and

1. The Commissioenr of Collegiate Education, Govt of AP, Hyderabad and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.29015 of 1995

ORDER:

This writ petition is filed questioning the proceedings in Rc.No.2121/PC3-4/93 dated 16.9.1995 issued by the 1st respondent-Commissioner of Collegiate Education, Government of Andhra Pradesh, as arbitrary and illegal and consequently to direct the respondents to absorb the petitioner in the post of Museum Keeper with effect from 23.11.1990 i.e., the date of selection by the Departmental Promotion Committee.

It is the case of the petitioner that he completed his Higher Secondary School education in 1968. He registered his name with Employment Exchange, Warangal District immediately after completing his education. Consequent upon a

requisition from the 4th respondent College for the post of Lower Division Clerk/Museum Keeper, the Employment Exchange sponsored the petitioner along with others vide proceedings bearing No.CKM/310/73 dated 25.9.1973. However, the petitioner was selected and appointed as Museum and Harberium keeper as a direct recruit in the LDC category with a starting pay scale of Rs.90.192 per month. The services of the petitioner as Museum/Harberium keeper was confirmed by the 4th respondent vide proceedings dated 25.9.1973 i.e., from the date of appointment. It is his further case that one K.Rajeshwar Rao was reverted from store keeper post to the post of Record Assistant on the ground that he passed Higher Secondary School compartmentally instead of in one attempt. The action of the college authorities was challenged before the 2nd respondent by the said Rajeshwar Rao. The 2nd respondent-Director of Higher Education, Hyderabad *vide* proceedings dated 20.08.1981 directed the 4th respondent to

consider the case of Rajeshwar Rao for promotion as Store Keeper. Consequent to the restoration of Rajeshwar Rao to the post of Store Keeper, G.Prabhakar Rao, who was working as Store Keeper by then was re-designated as Museum Keeper and the petitioner was re-designated as Record Assistant in the place vacated by Rajeshwar Rao. While re-designating the petitioner as Record Assistant, the 4th respondent by proceedings dated 13.4.1982 passed the following order.

> "Consequent on the restoration of Sri K.Rajeshwar Rao to the category of Store Keeper/Museum Keeper, Sri. J.Muthaiah, Museum-keeper, the junior most in the said category is reverted as record assistant in the vacancy caused by the restoration of Sri K.Rajeshwar Rao, to the category of Store Keeper/Museum Keeper.
>
> Sri J.Muthaiah, will draw the pay and allowances in the aided post of Record Assistant in the scale of Rs.350.550 p.m.
>
> However, the management will pay him the difference of pay held by him in the aided post of record assistant and in his formers post of Museum-keeper.
>
> He will be absorbed in any future vacancy of Museum Keeper/store keeper or

any other equivalent post. These orders will come into force with immediate effect."

Since the 4th respondent got approval and clearance from the 2nd respondent to protect the pay and allowances of the petitioner as he is drawing the salary in the post of Museum/Harberium keeper (LDC category) and he was assured to absorb in any future vacancy of Museum Keeper/store keeper or any other equivalent post, he accepted the re-designation as Record Assistant believing the offer in good faith and as such he has not challenged the re-designation of his employment status from Museum Keeper to Record Assistant. While that being so, to fill up an aided vacancy of Museum Keeper post, the Departmental Promotion Committee on 23.11.1990, selected him for promotion to the post of Museum Keeper and the 4th respondent promoted the petitioner as Museum Keeper under proceedings dated 25.9.1991. The proceedings read as under:

"On the recommendations of the DPC dt.23.11.1990 and in pursuance of the approval of the governing council of the college committee dated 23.9.1991, the following internal candidates are promoted against the aided vacant posts subject to approval of Director of Collegiate Education and fly-leaf.

(1) Sri G.Prabhakar Rao, Museum Keeper is promoted as Store Keeper against the aided vacancy of Sri K.Raja mouli from the date of DPC i.e., 23.11.1990 in the RPS of 1986 of Rs.910-30-1240-25-1675.

(2) Sri J.Muthaiah, Record Assistant is promoted as Museum Keeper in the resultant vacancy of Sri G.Prabhakar Rao w.e.f 23.11.1990 in the RPS of 1986 of Rs.750-30-1000-25-1275"

Further, the 4th respondent *vide* proceedings dated 19.1.1991 sent departmental recommendation of the Selection Committee for approval of the 1st respondent. The said recommendations were not approved for a long time in spite of reminders. However, the 1st respondent by proceedings dated 16.9.1995 rejected to confirm the promotion of the petitioner on the ground that

the DPC has not considered the claims of seniors and resolved to promote juniors to higher cadre. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that the 1st respondent failed to see that the petitioner was originally appointed directly to the post of Museum Keeper in LDC category and he worked in the said post for ten years. The 1st respondent ought to have come to a proper conclusion instead of rejecting the approval of the petitioner for promotion to the post of Museum Keeper.

No counter is filed till date.

Now, it is more than 11 years since the writ petition is filed. Learned counsel for the petitioner who filed the writ petition states that he has given up his vakalat. No one has filed any vakalat for the petitioner as of now.

In view of the above, without expressing any opinion on merits, the petitioner us directed to file proper representation before the 4th and 5th

respondents seeking to send proposals to the competent authority for re-consideration of the selections made on 23.11.1990.

Writ petition is disposed of accordingly. No costs.

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07-11-2006

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